

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Real Estate Appraiser  
License of John Brandt, License No.  
20274018

FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION

The above-entitled matter came on before Administrative Law Judge Raymond R. Krause ("ALJ") on May 27, 2004, for a prehearing conference. The prehearing conference was held pursuant to a Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges, dated April 13, 2004.

Michael J. Tostengard, Assistant Attorney General, 900 NCL Tower, 445 Minnesota Street, St. Paul, MN 55101-2127, appeared on behalf of the Minnesota Department of Commerce ("Department"). The Respondent, John Brandt, did not appear in person or by counsel. There were no additional submissions subsequent to the Respondent's default on May 27, 2004.

**NOTICE**

This Report is a recommendation, not a final decision. The Deputy Commissioner of Commerce will make the final decision after reviewing the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the Deputy Commissioner's decision shall not be made until this Report has been available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Deputy Commissioner. Parties should contact Kevin M. Murphy, Deputy Commissioner, Minnesota Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, telephone (651) 296-9411, to ascertain the procedure for filing exceptions or presenting argument to the Deputy Commissioner.

If the Deputy Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Deputy Commissioner, or upon the expiration of the deadline for doing so. The Deputy Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

**STATEMENT OF ISSUES**

1. Did the Respondent, by forging an appraisal, engage in acts of dishonesty, fraud, or misrepresentation with the intent to substantially benefit Respondent in violation of Minn. Stat. § 82B.20, subd. 2 (4) (2002)?

2. Did the Respondent violate Minn. Stat. § 45.027, subd. 1a (2002) by failing to respond to the Department's requests for information?

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. On April 13, 2004, a copy of the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges was sent to John Brandt, 1101 East 80<sup>th</sup> Street, Suite 106, Bloomington, MN 55420, as appears from an Affidavit of Service on file herein. The letter was not returned to the Department.

2. The Respondent did not appear at the prehearing conference, did not obtain the ALJ's prior approval to be absent from the prehearing conference, did not file a Notice of Appearance, and did not request a continuance or any other relief.

3. The Notice of and Order for Hearing, Notice of Prehearing Conference, and Statement of Charges contained the following informational warning:

**The Respondent's failure to appear at the prehearing conference may result in a finding that the Respondent is in default, that the Department of Commerce's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.**

4. Because Respondent failed to appear, he is in default.

5. Pursuant to Minn. R., part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Notice of Prehearing Conference, and Statement of Charges are taken as true and incorporated by reference into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Commerce are authorized to consider the charges against Respondent under Minn. Stat. §§ 326.91, 45.027, subd. 1, 45.024, and 14.50 (2002).

2. Respondent received due, proper and timely notice of the charges against him, and of the time and place of the prehearing conference. This matter is, therefore, properly before the Commissioner and the Administrative Law Judge.

3. The Department has complied with all relevant substantive and procedural legal requirements.

4. Under Minn. R., part 1400.6000, a contested case may be decided adversely to a party who defaults. On default, the allegations of and the issues set out in that Notice of and Order for Hearing or other pleading may be taken as true or deemed proved without further evidence.

5. The Respondent is in default herein as a result of his failure, without the ALJ's prior consent, to appear at the prehearing conference.

6. By forging signatures on appraisals, Respondent has engaged in acts involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit himself in violation of Minn. Stat. § 82B.20, subd.2(4) (2002).

7. By failing to respond to the Department's requests for information, Respondent violated Minn. Stat. § 45.027, subd. 1a (2002).

8. This Order is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that the Commissioner of the Minnesota Department of Commerce take adverse action against Respondent's license.

Dated this 1st day of June, 2004.

s/Raymond R. Kraus

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RAYMOND R. KRAUSE  
Administrative Law Judge

Reported: Default

### **NOTICE**

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.